

Letter 66

Kari E. Fisher
Associate Counsel
California Farm Bureau Federation

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Comment 66-1

Commenter stresses the importance of agricultural production in California's economy. Commenter recognizes the role agriculture has in the State's climate change efforts, in particular, sequestration capabilities. However, any policy to address climate change must not hinder the protection, conservation, and production of state agricultural lands.

Response 66-1

The Natural Resources Agency recognizes that the agricultural industry plays an important role in addressing the State's greenhouse gas emissions, and supports on-going research into efforts to reduce greenhouse gas emissions and increase sequestration opportunities in that sector.

Comment 66-2

The proposed changes to the Appendix G questions related to Agricultural and Forestry Resources should protect agricultural resources, including forest land, and should not restrict farmers' ability to change crops due to market and environmental conditions by imposing additional regulatory burdens on agricultural activities.

Response 66-2

The proposed revisions to the Appendix G checklist questions related to Agricultural Resources are intended to provide additional consideration of potential impacts to forest lands. Adding questions related to forestry resources to the section on Agricultural Resources will not prevent farmers from changing crops. Rather, where a public agency considers taking a discretionary action, such as granting a permit, it must consider the potential impacts of its action on both agricultural and forestry resources. As explained in the Initial Statement of Reasons, the proposed changes do not add any substantive requirements. (Initial Statement of Reasons, at pp. 66-67.) Therefore, the questions do not create additional regulatory burdens or restrictions on agricultural activities. No further revisions to the proposed amendments are required in response to this comment.

Comment 66-3

Any modification to the Appendix G checklist needs to be considered carefully. The checklist is typically used in both the initial study process and in setting thresholds of significance.

Response 66-3

One of the changes proposed as part of this rulemaking package is to add an explanatory note to the beginning of Appendix G. That note discourages lead agencies from using the checklist questions as thresholds of significance. However, the proposed changes to the Appendix G checklist questions have been carefully considered. The Natural Resources Agency believes that the changes will not adversely affect the California's agriculture.

Comment 66-4

The Appendix G checklist should identify all possible impacts to agricultural resources – including forest lands that could be lost or converted as a result of a project.

Response 66-4

The proposed amendments adding forest lands to the questions in Appendix G accomplish the objective suggested in the comment. No questions regarding agricultural resources are proposed to be deleted. Therefore, no further revisions to the Appendix G checklist are required to respond to this comment.

Comment 66-5

The addition of forestry to the Appendix G checklist is unwarranted. The commenter defines forestry to be included within the broader definition of "agriculture." Adding separate forestry considerations may negatively impact the agricultural industry.

Response 66-5

The existing questions in Appendix G related to Agricultural Resources may not be broad enough to encompass forestry resources. For example, question (a) asks about conversion of listed types of Farmland. Timber lands are defined as Other lands, and so would not be considered in the existing question (a). (FMMP Guidelines.) Question (b) may encompass forest resources, but only if a local agency includes forest resources in its "agricultural" zoning. Therefore, the Natural Resources Agency disagrees that the existing questions in Appendix G related to agricultural resources adequately address forestry resources. For reasons described below, the Natural Resources Agency disagrees that the added questions will adversely affect the agricultural industry.

Comment 66-6

Appendix G: Agriculture and Forestry checklist questions are inconsistent with state and local policies and duplicate existing legislation to preserve agricultural lands.

Response 66-6

While the comment opines that the proposed addition of forestry resources to the Appendix G checklist is inconsistent with existing state and local policies, none of those policies is identified and no explanation is provided of how the proposed changes might be inconsistent with such policies. The comment refers to Senate Bill 144 as “current state legislation”, but that bill has not been adopted by either house of the State Legislature or signed by the Governor. No revision of the proposed additions is required in response to this comment.

Comment 66-7

The proposed changes to the Appendix G checklist would treat a change in land use from forestlands to another agricultural use as a potentially significant impact requiring preparation of an EIR.

Response 66-7

As explained in the Initial Statement of Reasons, conversion of forest lands to non-forest uses may result in greenhouse gas emissions and reduce sequestration potential. (Initial Statement of Reasons, at pp. 63-64.) Conversions could also lead to impacts, in addition to the forest resources themselves, to aesthetic resources, biological resources, and water resources, among others. (*Ibid.*) An EIR would be required only if substantial evidence indicates that a proposed conversion would result in adverse impacts, however. (State CEQA Guidelines, § 15063(b)(1).) In other words, a question about whether conversion of forest resources, by itself, would not require preparation of an EIR; rather, substantial evidence in the record must support a fair argument that the conversion could result in a significant adverse impact. Therefore, the proposed changes to the Appendix G do not mandate the result assumed in the comment. No change in the proposed amendments is required in response.

Comment 66-8

Commenter recommends the revisions to the Appendix G checklist should preserve the ability to change crops without being considered a significant impact.

Response 66-8

As explained in Response 66-5, above, the addition of forestry questions to Appendix G does not create any presumption of impacts. Rather, the changes encourage the lead agency to consider whether there is any evidence of potential impacts that would result from conversion of forest resources. Additionally,

as explained in Response 66-1, above, the proposed additions would not prevent changes in crops. CEQA would only be triggered if the change in crops would require some discretionary approval. No further changes in the proposed amendments is required in response to this comment.

Comment 66-9

Revise Appendix G: Agriculture and Forestry question (c) to include “timberland production zone as defined in GC Section 51104(g)).

Response 66-9

The Natural Resources Agency proposes to add substantially similar language as suggested.

Comment 66-10

Revise Appendix G: Agriculture and Forestry question (d) and (e) to specify that conversion of forest land is only significant if it results in lands no longer used for agricultural purposes.

Response 66-10

The comment essentially suggests that the Guidelines should indicate that conversions of forest lands to other agricultural uses would not result in a significant impact. As explained in the Initial Statement of Reasons, evidence indicates that such conversions could potentially result in adverse environmental impacts. (Initial Statement of Reasons, at pp. 63-64.) Moreover, even if the suggested language was included in the checklist questions, a lead agency would still have to consider whether any evidence in the record indicates an adverse impact from such conversion, even if to another agricultural use. (*Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1109.) Therefore, the suggested additions are rejected.